

REMARKS/ARGUMENTS

Applicant confirms the telephonic election of April 24, 2008 to provisionally examine the invention of compound 5 of this application. Should that compound be found patentable, the examination should extend to other members of the genus encompassed by the relevant claims.

Claims 1-4, 8, 9, 11-13, 15, 16, 19, 47-49, 51-57 and 59-63, all the claims indicated as being under examination, are rejected as indefinite (35 USC 112, second paragraph) and failing to comply with the written description requirement (35 USC 112, first paragraph). The examiner objects to the mention of an electrophilic substituent capable of forming a bond with a cysteine residue within the ATP binding site of a kinase as being indefinite and not susceptible of searching.

While the objected phrase represents the essential concept of the invention, in order to expedite prosecution of this application, and without prejudice to continuing to seek such claims, Applicant has amended the claims by canceling claims 1 and 2, which include such phraseology, and making claim 3 (amended to include the limitations of former claim 9) the new main independent claim.

As to written description, the examiner asserts that the claims fail to satisfy this requirement in that they do not require the electrophilic substituent to possess any particular conserved structure or other distinguishing feature such as a specific biological activity. In return, Applicant submits that it is proper in this case to define the compounds in terms of their function, as that is the essence of what the inventor regards as his invention and such being the case the written description requirement is satisfied. In any event, the claims as amended do not include this phraseology.

The examiner also objects to the terms "substituted", and "heterocyclic" as indefinite. However, these terms are defined in the specification, for instance in paragraphs 42 and 43. Applicant submits that these terms therefore are not indefinite.

Claims 47-49, 51-57 and 59-63 are rejected as non-enabled (35 USC 112, first paragraph) with respect to how to use the compounds. The examiner asserts that for such disclosure to be enabling, a physician must be taught what diseases and what symptoms are to be treated, who the subject is, and the dosages and dosing regimen.

Applicant submits that insofar as the claims cover non-therapeutic uses of the compounds in inhibiting kinases, sufficient information is presented to enable the use of the compounds in laboratory procedures involving inhibition of kinases. Insofar as therapeutic use of the compounds is concerned, the specific information the examiner considers necessary is far in excess of what in fact is needed to enable those skilled in the art to use the compounds. Those skilled in the art are aware of the need for kinase inhibition as discussed in the introductory portion of this application, and the conditions that would benefit from such inhibition. Sufficient information is presented in this application to enable those skilled in the art to readily ascertain, with simple tests, what amount or dose of what compound, would be effective in inhibiting a kinase activity in a given situation. Furthermore those skilled in the art to which the invention is directed, are not the practicing physicians who are to prescribe a specific treatment but the pharmaceutical manufacturers and their personnel who would manufacture and obtain regulatory approval for the use of the claimed compounds to treat diseases, and who then would issue directions for their use, with appropriate dosages. These institutions and individuals would readily be able to ascertain which conditions involving the need for kinase inhibition would be treated by which compounds herein, and at which dosages.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

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PATENT

Respectfully submitted,

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